



## Senate

General Assembly

**File No. 710**

January Session, 2017

Substitute Senate Bill No. 980

*Senate, April 25, 2017*

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

### ***AN ACT CONCERNING TAMPERING WITH A WITNESS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-151 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2017*):

3 (a) A person is guilty of tampering with a witness in the second  
4 degree if, believing that an official proceeding is pending or about to  
5 be instituted, [he] such person induces or attempts to induce a witness  
6 to testify falsely, withhold testimony, elude legal process summoning  
7 [him] the witness to testify or absent himself or herself from any  
8 official proceeding.

9 (b) Tampering with a witness in the second degree is a class C  
10 felony.

11 Sec. 2. (NEW) (*Effective October 1, 2017*) (a) A person is guilty of  
12 tampering with a witness in the first degree if such person commits

13 tampering with a witness in the second degree as provided in section  
14 53a-151 of the general statutes, as amended by this act, and in the  
15 commission of such offense, such person physically harms or threatens  
16 to physically harm the witness or a third person.

17 (b) Tampering with a witness in the first degree is a class B felony.

18 Sec. 3. Subsection (a) of section 54-82q of the general statutes is  
19 repealed and the following is substituted in lieu thereof (*Effective*  
20 *October 1, 2017*):

21 (a) Upon application of a prosecutorial official, a court may issue a  
22 temporary restraining order prohibiting the harassment of a witness in  
23 a criminal case if the court finds, from specific facts shown by affidavit  
24 or verified complaint, that there are reasonable grounds to believe that  
25 harassment of an identified witness in a criminal case exists or that  
26 such order is necessary to prevent and restrain the commission of an  
27 offense under section 53a-151, [or] as amended by this act, 53a-151a or  
28 section 2 of this act.

29 Sec. 4. Subsection (a) of section 54-82r of the general statutes is  
30 repealed and the following is substituted in lieu thereof (*Effective*  
31 *October 1, 2017*):

32 (a) Upon application of a prosecutorial official, a court may issue a  
33 protective order prohibiting the harassment of a witness in a criminal  
34 case if the court, after a hearing at which hearsay evidence shall be  
35 admissible, finds by a preponderance of the evidence that harassment  
36 of an identified witness in a criminal case exists or that such order is  
37 necessary to prevent and restrain the commission of a violation of  
38 section 53a-151, [or] as amended by this act, 53a-151a or section 2 of  
39 this act. Any adverse party named in the complaint has the right to  
40 present evidence and cross-examine witnesses at such hearing. Such  
41 order shall be an order of the court, and the clerk of the court shall  
42 cause a certified copy of such order to be sent to the witness, and a  
43 copy of such order, or the information contained in such order, to be  
44 sent by facsimile or other means within forty-eight hours of its

- 45 issuance to the appropriate law enforcement agency.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	53a-151
Sec. 2	<i>October 1, 2017</i>	New section
Sec. 3	<i>October 1, 2017</i>	54-82q(a)
Sec. 4	<i>October 1, 2017</i>	54-82r(a)

***Statement of Legislative Commissioners:***

Sections 3 and 4 were added in order to make conforming section citations.

***JUD***      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### ***OFA Fiscal Note***

#### ***State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 18 \$</b>	<b>FY 19 \$</b>
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

***Municipal Impact:*** None

#### ***Explanation***

The bill results in a cost by broadening the scope of tampering with a witness and increase the penalty by categorizing the offense with a 1<sup>st</sup> and 2<sup>nd</sup> degree crime. To the extent that offenders are prosecuted for expanded offenses under this bill, potential costs for incarceration or probation supervision in the community, or judicial revenue would result. On average, it costs the state \$7,260 (including benefits) to supervise an inmate in the community as opposed to \$61,320 (including benefits) to incarcerate an offender. Currently there are 13 individuals incarcerated for this offense.

#### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of violations.

**OLR Bill Analysis****sSB 980*****AN ACT CONCERNING TAMPERING WITH A WITNESS.*****SUMMARY**

This bill broadens the scope of the crime of tampering with a witness and increases the penalty when the offender physically harms the witness or threatens to do so.

The bill (1) categorizes the existing tampering with a witness crime as the 2<sup>nd</sup> degree crime and (2) makes it 1<sup>st</sup> degree tampering with a witness if, while committing the 2<sup>nd</sup> degree crime, the offender physically harms, or threatens to physically harm, the witness.

Under the bill:

1. the 2<sup>nd</sup> degree crime, as is the case under current law, is a class C felony, punishable by one to 10 years in prison, a fine of up to \$10,000, or both and
2. the 1<sup>st</sup> degree crime is a class B felony, punishable by one to 20 years in prison, a fine of up to \$20,000, or both.

Under the bill, as is the case under current law for tampering with a witness, a person is guilty of the 2<sup>nd</sup> degree crime if, believing that an official proceeding is pending or about to start, the person induces or attempts to induce a witness to testify falsely, withhold testimony, elude legal process summoning the witness to testify, or miss any official proceeding.

The bill also makes conforming changes.

EFFECTIVE DATE: October 1, 2017

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea     41     Nay   0     (04/07/2017)